

FILED (DROP BOX)

NOV 03 2020

AT SEATTLE  
CLERK U.S. DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON DEPUTY

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT  
Seattle Division

CASE No. **20-CV-6083 JRC**

JOE PATRICK FLARITY, a marital  
community

Plaintiff,

V.

DAVID H. PRATHER,  
ARGONAUT INSURANCE COMPANY,  
PIERCE COUNTY, a municipal  
corporation,  
Et Al.

Defendants

COMPLAINT FOR COLOR OF LAW  
VIOLATIONS, DAMAGES,  
PENALTIES AND DECLARATORY  
RELIEF

JURY DEMANDED

TABLE OF CONTENTS

PAGE

PLEADING.....	2
BASIS FOR JURISDICTION .....	6
PLAINTIFF AND STANDING .....	6
DEFENDANTS .....	7
VENUE .....	8
JURY DEMANDED .....	9
DUTY TO DISCLOSE .....	9
DELIVERY OF SERVICE .....	9
STATEMENT OF FACTS .....	9
DECLARATORY RELIEF REQUESTED .....	13
REMEDIES REQUESTED .....	14

Summ / 144  
REC#: GSA 102431

## PLEADING

1. NOW COMES the PLAINTIFF, PRO SE, moves the Court to order the Defendants, hereafter called **the officials**, to pay damages as a result of violated Constitutional Amendments, laws, rules, and the officials' sworn oaths. When **the people** is used, it refers to the allied citizens and residents of Pierce County in general, with Flarity included.

2. The officials' abuses of power, process, and the rule of law damage the people regardless of political affiliation, race, sex, age or citizenship. The officials' abuse is widespread and represents a PATTERN and PRACTICE.

3. Flarity repeats and re-alleges all the allegations contained herein as if fully set forth throughout. For pleading clarity, this vernacular applies to all counts, remedies, and reliefs herein and will not be repeated.

### COUNT 1

#### **42 U.S. Code § 1983, Claim for Violation of Equal Protection of the Law and Due Process (Against all Defendants)**

4. The authority of the 14th amendment invokes the US Constitution on the defendants for constitutional amendments, rules, procedures and oaths.

14th Amendment: "No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty or property, without due process of law; nor deny any person within its jurisdiction the equal protection of the laws."

5. Officials damaged Flarity by violations of the US Constitution as the employees refused to obey amendments, laws or other established codes of conduct. The violations of individual employees were taken jointly, in concert, and with shared intent. They constitute a continuing civil conspiracy to deny civil

rights. The violations are **deliberate, reckless or callous** with **evil intent** and **bad faith**. Flarity suffered intentional emotional damage and ambient abuse by officials violating the laws they swore to uphold, as well as significant financial penalties.

**COUNT 2**  
**42 U.S. Code § 1983, Monell Policy Claim**  
**(Against Defendant Pierce County)**

6. The actions of employees were taken under the authority of one or more **policies, patterns, practices or customs**. The officials failed to train, supervise, discipline, or otherwise control individuals responsible to ensure the rights of the people are protected. The policies represent unconstitutional practices. The policies were further established by ratification, approval or indifference by supervisors and policy makers. Employees have a good reason to believe their misconduct will not be challenged and that they are immune from consequences, such as RCW 9A.52.070, RCW 9A.80.010, and RCW 84.40.025. Defendant Pierce County has taken overt steps to hide **bad faith** official misconduct and slip the financial burden onto the people.

**COUNT 3**  
**Violation of Flarity's Right to Privacy**  
**(Against Pierce County and individual employees of Pierce County)**

7. Government enforcement agent, Heather Orwig violated plaintiff's right to privacy by entering the Flarity's curtilage and searching their private effects, a violation of the 4th Amendment's protection on searches as well as Flarity's Common Law Rights to Privacy. The 4th Amendment:

"The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause,

supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

Ms. Owig's illegal search was authorized by DPA David H. Prather.

8. The people's privacy rights are *destroyed* by Pierce County policy, the officials are ***callused*** to the point their corruption is comfortable. The officials wield power as if the people were still subjects under the British Royal Standard, brandishing an ***evil*** and ***reckless*** frontal assault on fundamental rights. By supporting DPA Prather's NOTICE, Prosecutor Robnett makes it known that officials are immune from criminal laws such as RCW 9A.52.070 for trespass that would be no doubt be harshly enforced on people invading Prosecutor Robnett's privacy.

***"Tyranny is defined as that which is legal for the government but illegal for the citizenry."*** - Thomas Jefferson.

#### COUNT 4

##### **Claim for Taking of Plaintiff's Property by Violation of the 5th Amendment Taking Clause and Due Process (Against Pierce County and David H. Prather)**

9. Thanks to AG Ferguson, stalwart defender of the people's civil rights—the AG's advice to municipalities: *Avoiding Unconstitutional Takings of Private Property* (2018) with emphasis added:

The doctrine of substantive due process is based on the recognition that the social compact upon which our government is founded provides protections beyond those that are expressly stated in the U.S. Constitution against the flagrant abuse of government power. *Calder v Bull*, 3 U.S. 386 (1798).

...The fundamental attributes of property ownership are generally identified as the right to own or possess the property, ***the right to***

***exclude others from the property***, and the right to transfer the property to someone else. See *Guimont v. Clarke*, 121 Wn.2d 586, 854 P.2d 1 (1993).

10. DPA Prather's NOTICE gives unequivocal warning that the officials have corroded the people's right to refuse arbitrary inspections by Pierce County officials, "*destroying*" an "*essential stick*" in the peoples' "bundle of rights." Prather's NOTICE demonstrates that Flarity's land is not the same as properties in other parts of Washington state. After 3 years of jumping through non-judicial hoops with no acknowledgement that this right is respected in Pierce County, Flarity pleads their property is TAKEN. Flarity proceeds directly to Federal Court for 42 U.S. Code § 1983 violations.

11. The Court should note that county officials have other resources to assess property value via less invasive methods and are given the presumption of correctness in their assessments that can only be overcome by "clear, convincing and cogent" evidence presented by taxpayers—an extremely high burden for a citizen to overcome in even a fair administrative court. Strict enforcement of our rights is no burden on the assessor and strict interpretation of the people's civil rights serves to bolster property values.

**COUNT 5: Civil Rights Tort Claims are liable to the Argonaut  
Insurance Company**

12. The Argonaut Insurance Company knew or should have known that tens of millions of taxpayer dollars for civil rights violations of which they were liable was instead being sneaked onto Pierce County taxpayers. They receive about \$330,000 of yearly premiums and the people expect them to honor their

contract. Public insurers have a moral and legal responsibility to restrain the officials they insure. Argonaut has breeched its duty, contributing to Pierce County's pattern and practice of civil rights violations. This failure was an intentional, or negligent tort, by strict or implied liability. Flarity alleges a hidden evil agreement is corrupting the morals of officials in Pierce County at taxpayer expense.

## **BASIS FOR JURISDICTION**

13. The basis for jurisdiction is a federal question pursuant to Civil Rights Act, 42 U.S. Code § 1983, et seq; 28 U.S. Code § 1331; 28 U.S. Code § 1343 (a); the 14th Amendment of the Constitution of the United States.

14. Supplemental jurisdiction over the related state law claims is invoked pursuant to 28 U.S. Code § 1367.

15. This Court has further remedial authority under the Declaratory Judgment Act, 28 U.S. Code § 2201 (a) and 28 U.S. Code § 2202.

## **PLAINTIFF AND STANDING**

16. The plaintiff is a marital community of lots 2 and 3 located in rural Pierce County; address 28719 Borrell Rd E, Buckley, WA 98321 and approximately 11 acres. This land is productive pasture since the Wickersham and Valley saw mills were removed around 1910, and the fertile land short-platted into the Valley Garden Estates. Flarity proceeds on behalf of the

community via FRCP R17 and RCW 4.08.040 "When either spouse or either domestic partner may join or defend."

17. The officials have valued Flarity's property at approximately \$450,000, removed the property from farm status and forced enormous penalties and taxes suitable to fully developed property onto Flarity. The officials' actions make further farming impossible, wrecked the finances of Flarity as irreplaceable savings are depleted to pay unplanned expenses, penalties and taxes. The officials' actions force Flarity to repurpose for sale land they had improved for livestock and wildlife for over twenty-five years. The official's push for development is inconsistent with Flarity's lifelong goals of sustainable land that could be used by a variety of native species already suffering from intense urban pressure. The officials' actions defeat the legislature's interest in preserving rapidly diminishing natural resources.<sup>1</sup>

18. Precedent has been established that Federal Court is the proper forum for 42 U.S. Code § 1983 claims at any stage of the litigation process. Flarity will show suffering from an "*injury-in-fact*," that its injury is "*traceable*" to state and county actions, and that Flarity's injury will likely be "*redressed*" by this action. *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-61, 112 S.Ct. 2130, 119 L.Ed.2d 351 (1992).

## DEFENDANTS

---

<sup>1</sup> From RCW 84.34.300:

The legislature further finds that despite this potential property tax reduction, farmlands and timberlands in urbanized areas are still subject to high levels of benefit assessments and continue to be removed from farm and forest uses.

19. David H. Prather is a Pierce County deputy prosecutor.

20. The actions of the county officials whom violated Flarity's civil rights were covered in 2017 by Argonaut Insurance Company, a Bermuda company with Domiciliary Address listed as 225 W. Washington Street, 24th Floor Chicago, IL 60606.

21. Pierce County is a municipal corporation formed under the laws of Washington State. Pierce County is represented by the County Executive, Bruce Dammeier.

22. Et Al: UNNAMED INDIVIDUAL DEFENDANTS: The fracture of laws and constitutional amendments Flarity suffered required substantial assistance from a variety of officials whom will be added to the complaint when identified during discovery.

## VENUE

23. Venue is the Western District of Washington under 28 U.S. Code § 1391 (b)(3). "a defendant not resident in the United States may be sued in any judicial district...", 28 U.S. Code § 1332 and 28 U.S. Code § 1441. The family of Argonaut Insurance Companies are based in Bermuda.

24. In consideration of Washington law, the Seattle venue is proper because the cause is brought in the county in which Flarity resides per CR 82(a) (3).

25. In consideration of Washington law, the Seattle Venue is proper because the cause is brought in the neighboring county of Pierce County per RCW 36.01.050.



## **JURY DEMANDED**

26. Flarity respectfully demands a jury per Fed. R.Civ. P. 38 (a) and prays for relief sufficient to change the behavior of the officials.

## **DUTY TO DISCLOSE**

27. Per Federal Rule 26. Initial Disclosure: The officials have a duty to disclose all possible defendants, documents, and insurance agreements within 30 days of service.

## **DELIVERY OF SERVICE**

28. Delivery of service per FRCP Rule 5 and proof of service will be filed with the Court except Argonaut Insurance Company.

29. The actions of the county officials whom violated Flarity's civil rights were covered in 2017 by Argonaut Insurance Company, a Bermuda company. Per the Insurance commissioner's website, service is to:

Office of the Insurance Commissioner  
Service of Legal Process  
P.O. Box 40255  
Olympia, WA 98504-0255

*"...with a cover letter stating the insurer, the summons and complaint, two sets of all documents for each entity and a \$10 check or money order per insurer made payable to Washington State Office of the Insurance Commissioner."*

## **STATEMENT OF FACTS**

30. Parcels 9815000014 and 9815000015 were listed as 100% wetlands in 2017 and recognized as an **open space corridor** for wildlife in the

tax records. The land has been in continuous farm production since 1910 for hay and grazing and other livestock.

31. In 2016 Flarity constructed a 40x60 foot barn on lot 3 for farm storage from scrap cedar logs, using a small RV on lot 2 during the construction period.

32. In May of 2017 government enforcement agent, Heather Orwig, trespassed on Lot 3, crossing a gate and 2 NO TRESPASSING signs, then proceeded down a driveway of approximately 300 yards in length to Flarity's barn. Ms. Orwig entered the curtilage of the barn, took pictures and measurements of the exterior and interior, examined Flarity's personal affects and made the presumption that the barn was a 50% completed residence. Ms. Orwig then trespassed on lot 2, crossing another gate and two more No Trespassing signs, entering into the curtilage of Flarity's small travel trailer.

33. Shortly after, government enforcement agent Sue Testo notified Flarity that the property would be removed from farm status due to the report from Ms. Orwig.

34. On August 17, 2017, Hurricane Harvey becomes the wettest hurricane to reach landfall in US history, dropping about 40 inches of rain on Flarity's house in San Jacinto County, Texas.

35. Flarity protested Ms. Testo's threat to remove farm status in a letter to her dated September 19, 2017, promising to contest any change to the full extent of the law, and demanding Ms. Testo provide the forms necessary for the protest per the statute. Flarity then received a "green card" change of value notification from the Assessor-Treasurer adding the barn value as a 50%

completed residence to the value of the Lot 3 property. The card provided a path to the protest form and that form was submitted to the BOE. The BOE clerk did schedule a hearing (moved later to January 9, 2018). Then Flarity headed back to Texas to survey the damages from hurricane Harvey to his residence.

36. Sue Testo sent a letter, dated September 27, 2017, demanding a meeting to be scheduled by October 6, 2017 to resolve conflicts and included the BOE forms Flarity had demanded. (Different forms than those linked on the green card.) Her letter was not received because Flarity was busy repairing damages in Texas. Besides severe damages to Flarity's property, his father had a homestead that was damaged. During repair, dad had a stroke, was hospitalized and Flarity stopped his repair and assisted in dad's relocation to a handicap residence close to the hospital.

37. On October 30, 2017, Tammi Lewis, secretary to Flarity's Councilperson Dan Roach, forwarded the "NOTICE" from deputy prosecutor David H. Prather taking the form of the outlawed GENERAL WRIT OF ASSISTANCE from the people's history as subjects to King George III.

38. In December 2017, Flarity received a tax bill from Pierce County for over \$25,000 and understood then that Ms. Testo had NOT waited for the hearing on January 9, 2018 to convert all of Flarity's property to "best use", assigning the maximum penalties possible. Furthermore, Ms. Testo had NOT waited the required 60 days after mailing the different protest form as required by state law, which was still sitting in Flarity's mail box in Buckley.

39. Flarity filed a claim for damages per Washington law RCW 4.96.020. This was denied in full with no explanation by Pierce County Risk

Management on November 15, 2018, after Risk Management had received guidance from DPA Prather, whose comments were redacted from the public records.

40. In May of 2019, Flarity packed personal items by Allied shipping and moved to the northwest for the single purpose of contesting the loss of the people's civil rights in Pierce County.

41. On May 28, 2019, Flarity presented to the Pierce County Council details of the violation of our civil liberties, possible remedies, and purchased a website to document Flarity's presentations: <http://inthejawsofjackals.com>

42. On June 18, Flarity presented to the Council this quote from Mary Robnett, the current prosecutor:

<https://truthaboutmark.com/the-promising-start-the-fall-from-grace/>

*...Lindquist's terms have been marked by multiple scandals, an obsession with image management and politics, poor decision-making, retaliation, besieged subordinates, a damning independent investigation, and piles of wasted taxpayer dollars.*

At this meeting, the Council did approve a claim for \$649,999. in the case of **Ames v. Pierce County**, 374 P.3d 228 (2016) with no discussion.

43. Flarity's investigation of **Ames** revealed the **damning independent investigation** Mary Robnett referred to above: Mark R. Busto of Sebris Busto James, dated October 22, 2015. The report provided details about **Ames** and a related one, **Nissen v. Pierce County**, 182 Wash.2d 1008, 343 P.3d 759 (2015). Multiple millions were needed to resolve these cases for similar callous behavior to people's rights by Prosecutor Mark Lindquist. Like in Ames, the Council had forced the Nissen costs onto the taxpayers with no discussion.

44. Flarity had submitted numerous petitions to the Washington State Board of Tax Appeals (WSBTA) concerning the unconstitutional activity of Pierce County officials for trespass and due process. On September 3, 2019, Flarity appeared before Mark Pree at the WSBTA for a hearing on the presumed characteristic of the barn on lot 3. Under oath, Jim Hall, Division Manager at the Assessor-Treasurer's office, testified that his employees peek in citizen's windows and enter open doors as a standard practice of tax valuation of real and personal property in Pierce County.

45. On September 10, 2019, Flarity described to the Council Jim Hall's testimony, reminding them that DPA Prather's NOTICE violating the peoples' Fourth Amendment rights was still in active use.

46. On November 6, 2019, the WSBTA denied Flarity's claim for review on Cause 93983 and 94396, ending the last nonjudicial remedy available to rectify the issues on property damages.

47. For tax years, 2018, 2019 and 2020, the assessor has continued to assess Flarity's land as best use, while increasing the value of the barn labeled as a 50% completed residence, compounding the initial damage.

48. After three years of jumping through myriads of "required" non-judicial hoops with no acknowledgement of a scintilla of culpability by Pierce County, Flarity now prays for relief in Federal Court.

## **DECLARATORY RELIEF REQUESTED**

49. **INVASION OF PRIVACY PROHIBITED:** Flarity asks the Court to declare that the officials conducted an illegal search and invaded Flarity's privacy

and this illegal action resulted in significant emotional damage, ambient abuse, and economic damage. The official's actions were deliberate, callous, with evil motive or intent, or reckless and in bad faith, or alternately negligent; and

50. The Court is requested to declare that Flarity's right to privacy for this and similar circumstances is reasonable—the expected right of every resident in America. Exclusion of arbitrary government inspections is a vital aspect of the “bundle of rights” the people expect in their domiciles. Their property is taken once that right is destroyed.

### **REMEDIES REQUESTED**

51. Burden of proof for remedies shall be by preponderance of evidence.

52. Flarity shall be paid \$500,000 per incident for invasion of privacy due to the damages of emotional pain, distress, loss of privacy, and disruptions in living and farming practices. This shall include the suffering of ambient abuse, as well as abuse of power and process; and

53. Flarity shall be paid \$1,000,000 for the forced sale of both Buckley parcels with the 50% completed “residence” and “best use” land status.

54. Award Flarity legal and moving expenses pursuant to **42 U.S. Code § 1983**; and

55. The Court is requested to levy all the liability portions of claims directly to the Argonaut Insurance Company; and

56. Award any other relief that serves the interests of equitable justice or could encourage future restraint of lawbreaking officials; and

57. Allow amendment of this complaint if the interests of justice require amendment; and

58. Grant Injunctive relief to Flarity.

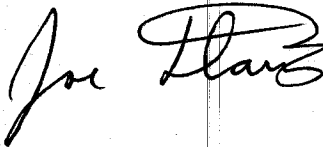
CERTIFICATION AND SIGNING:

By signing below, Flarity certifies that this Complaint complies with the requirements of Federal Rule of Civil Procedure 11, to the best of Flarity's knowledge. Flarity certifies that the address is correct and the Clerk will be notified if there is any change.

Date of Signing:

11/3/2020

Signature of Plaintiff:



Printed Name of Plaintiff:

Joe Flarity

249 Main Ave S, STE 107, #330

North Bend, WA 98045

f\_v\_piercecountywa@yahoo.com

253 951 9981



Joe Flarity  
249 Main Ave. S.  
STE 107, # 330  
North Bend, WA  
98045

FILED  
Western District of Washington  
BY SP-116

NOV 03 2020

MARK L. HATCHER, CLERK  
OF THE DISTRICT COURT

FILED (DROP BOX)

NOV 03 2020

AT SEATTLE  
CLERK'S OFFICE  
BY WESTERN DISTRICT OF WASHINGTON

Seattle Federal Court

Pleadings to File  
enclosed: (1) Pleadings  
(3) Summons  
(1) check